

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLARENCE L. BIRD RATTLER, JR.,

Defendant.

CR-02-55-GF-BMM-JTJ

CR-03-76-GF-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston conducted a revocation hearing in this matter on October 16, 2018. (Doc. 37.) The United States accused Clarence L. Bird Rattler, Jr. of violating his conditions of supervised release by consuming alcohol. (Docs. 30 at 2 & 37 at 2.)

Judge Johnston entered Findings and Recommendations in this matter on October 18, 2018. (Docs 38 & 45.) Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 153-52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The admitted violations prove serious and warrant revocation of Bird Rattler's supervised release. Judge Johnston has recommended that the Court revoke Bird Rattler's supervised release and commit Bird Rattler to the custody of the Bureau of Prisons for 8 months, with 52 months of supervised release to follow in Cause CR-03-76-GF-BMM. (Doc. 45 at 4.) Judge Johnston further recommended a sentence of 8 months, with 28 months supervised release to follow in Cause CR-02-55-GF-BMM. (Doc. 38 at 4.) Judge Johnston has recommended that the sentences imposed in Cause CR-03-76-GF-BMM and Cause CR-02-55-GF-BMM run concurrently (Docs. 45 at 4 & 38 at 4.) Finally, Judge Johnston recommended that Bird Rattler spend the first 180 days of supervised release in a Residential Reentry Center, if eligible. *Id.*

The Court finds no clear error in Judge Johnston's Findings and Recommendations. Bird Rattler's violations of his conditions represent a serious breach of the Court's trust. A sentence of eight months custody, followed by 52 months supervised release imposed in Cause CR-03-76-GF-BMM, to run concurrent with a sentence of eight months custody, followed by 28 months supervised release, imposed in Cause CR-03-76-GF-BMM, represents a sufficient, but not greater than necessary sentence.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Docs. 38 and 45) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant David Bird Rattler be sentenced to custody for eight months, followed by 52 months of supervised release, to run concurrent with a sentence of eight months followed by 28 months of supervised release. It is further ordered that Mr. Bird Rattler spend the first 180 days of supervised release in a Residential Reentry Center, if eligible.

DATED this 6th day of November, 2018.



Brian Morris
United States District Court Judge